

1 JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)  
3 Chief, Criminal Division

4 OWEN P. MARTIKAN (CSBN 177104)  
5 Assistant United States Attorneys

6 450 Golden Gate Avenue, Box 36055  
7 San Francisco, California 94102  
Telephone: (415) 436-7241  
Facsimile: (415) 436-7234  
owen.martikan@usdoj.gov

8 Attorneys for Plaintiff

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA, ) CR 09-0973 JSW  
14 )  
15 Plaintiff, ) STIPULATION AND [PROPOSED]  
16 v. ) ORDER EXCLUDING TIME  
17 DONALD THOMAS TOSTI, )  
18 Defendant. )  
19 \_\_\_\_\_)

20  
21 On December 10, 2009, the parties in this case appeared before the Court for a hearing on  
22 the United States' motion for review of the magistrate judge's release order. The parties  
23 stipulated and the Court agreed that time should be excluded from the Speedy Trial Act  
24 calculations from December 10, 2009, through January 7, 2010, for continuity and effective  
25 preparation of defense counsel. The parties represented that granting the continuance would  
26 allow the reasonable time necessary for effective preparation of defense counsel, taking into  
27 account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv). The parties also  
28 agreed that the ends of justice served by granting such a continuance outweighed the best

1 interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

2 SO STIPULATED:

3 JOSEPH P. RUSSONIELLO  
4 United States Attorney

5 /s/  
6 DATED: December 17, 2009

7 OWEN P. MARTIKAN  
8 Assistant United States Attorney

9 /s/  
10 DATED: December 17, 2009

11 DANIEL BLANK  
12 Attorney for Donald Tosti

13 [PROPOSED] ORDER

14 As the Court found on December 10, 2009, and for the reasons stated above, an exclusion  
15 of time from December 10, 2009, through January 7, 2010, is warranted because the ends of  
16 justice served by the continuance outweigh the best interests of the public and the defendant in a  
17 speedy trial. *See* 18 U.S.C. §3161 (h)(7)(A). The failure to grant the requested continuance  
18 would deny defense counsel the reasonable time necessary for effective preparation, taking into  
account the exercise of due diligence, and would result in a miscarriage of justice. *See* 18 U.S.C.  
§3161(h)(7)(B)(iv).

19

20 SO ORDERED.

21  
22 DATED: December 18, 2009  
23

24 HON. JEFFREY S. WHITE  
25 United States District Judge

